

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SAMER KARAWI,

Petitioner,

V.

UNITED STATES OF AMERICA,

## Respondent.

Case No. C08-0947RSL

**ORDER GRANTING  
CERTIFICATE OF APPEALABILITY**

This matter comes before the Court on petitioner’s “Motion for Certificate of Appealability.” Dkt. # 18. Because petitioner filed his notice of appeal after April 24, 1996, his appeal is governed by the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), which worked substantial changes to the law of habeas corpus. Under the amended version of 28 U.S.C. § 2253(c), a petitioner may not appeal the denial of a habeas corpus petition unless the district court or the Ninth Circuit issues a certificate of appealability identifying the particular issues that may be pursued on appeal. United States v. Asrar, 116 F.3d 1268 (9th Cir. 1997).

To obtain a certificate of appealability, the petitioner must make a substantial showing of the denial of a constitutional right. “Obviously the petitioner need not show that he should prevail on the merits. He has already failed in that endeavor.” Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983). Rather, he must demonstrate that the resolution of the habeas petition is debatable among reasonable jurists or that the issues presented were “adequate to deserve encouragement to proceed further.” Slack v. McDaniel, 529 U.S. 473, 483-84 (2000). Where a

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1 petition is dismissed on procedural grounds, the Court must determine whether “jurists of  
2 reason” would debate (1) whether the petition states a valid claim of the denial of a  
3 constitutional right and (2) whether the district court’s procedural ruling was correct. Slack, 529  
4 U.S. at 484.

5 Having reviewed the record in this case, including the Report and  
6 Recommendation of the Honorable James P. Donohue, United States Magistrate Judge, the  
7 Court finds that the dismissal of petitioner’s ineffective assistance of counsel claim is debatable  
8 among reasonable jurists and that the claim deserves to proceed further. Petitioner’s motion for  
9 a certificate of appealability is therefore GRANTED.

10  
11 Dated this 23rd day of March, 2009.

12 Robert S. Lasnik

13 Robert S. Lasnik  
14 United States District Judge  
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